

OFFICE OF THE GENERAL COUNSEL

M E M O R A N D U M

TO: Chief, Dockets Division

FROM: Associate General Counsel, Litigation Division

SUBJECT: Alliance for Community Media, The Alliance for Communications Democracy and People for the American Way v. FCC & USA, No. 93-1270. Filing of a new Petition for Review in the United States Court of Appeals for the District of Columbia Circuit

DATE: April 20, 1993

Docket No(s). MM Docket 92-258

File No(s).

This is to advise you that on April 15, 1993, The Alliance for Community Media, et al., filed with the United States Court of Appeals for the District of Columbia Circuit a:

X Section 402(a) Petition for Review
_____ Section 402(b) Notice of Appeal

of the following FCC decision: In the Matter of Implementation of Section 10 of the Cable Consumer Protection and Competition Act of 1992, FCC 93-164, released April 2, 1993. Challenges the rules that give cable operators the power to prohibit indecent programming on commercial leased access channel.

Due to a change in the Communications Act, it will not be necessary to notify the parties of this filing.

The Court has docketed this case as No. 93-1270 and the attorney assigned to handle the litigation of this case is Gregory M. Christopher

Daniel M. Armstrong

cc: General Counsel
Office of Public Affairs
Shepard's Citations

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In the
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

The Alliance For Community Media,)
The Alliance For Communications)
Democracy, and People For The)
American Way,)

Petitioners,)

v.)

Federal Communications Commission)
and United States of America,)

Respondents.)

No. 93-1270

Filed: 4/15/93

PETITION FOR REVIEW

Pursuant to 47 U.S.C. § 402(a), 28 U.S.C. § 2342(1), and 28 U.S.C. § 2344, the Alliance for Community Media, the Alliance for Communications Democracy, and People for the American Way (collectively "Petitioners") hereby petition this Court for review of the Federal Communications Commission's ("Commission") Second Report and Order, FCC No. 93-164 (released April 2, 1993 and published in summary form in the Federal Register on April 15, 1993) in MM Docket No. 92-258.

Petitioners previously filed a Petition for Review of the FCC's First Report and Order, and this Court granted a stay of its enforcement pending court review. Alliance for Community Media v. FCC, No. 93-1169 (D.C. Cir., Petition for Review filed Feb. 20, 1993, Order granting stay filed April 7, 1993). The First Report and Order and the Second Report

and Order arise from the same rulemaking, share the same record, implement the same statute, raise substantially the same issues, and suffer the same constitutional infirmities. Petitioners intend immediately to seek consolidation of this action with their Petition in No. 93-1169.

Petitioners will also move immediately for an emergency stay pending review of the Second Report and Order. In granting Petitioners' Motion for Stay Pending Review of the First Report and Order, this Court held that Petitioners had "demonstrated satisfaction of the stringent standards required for a stay pending court review." All of Petitioners' arguments with respect to the exigency of a stay of the First Report and Order apply with equal or greater force to the Second Report and Order, which is scheduled to go into effect on May 17, 1993.

The Petition for Review in 93-1169 details the reasons for seeking review of the Commission's rulemaking in MM Docket No. 92-258, as well as the statute on which it is based, Section 10 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385, 106 Stat. 1460 (1992). Petitioners hereby incorporate by reference the entirety of their Petition for Review in No. 93-1169.

Venue in this Court is proper under 28 U.S.C. § 2343. This petition is timely filed under 28 U.S.C. § 2344.

A copy of the Commission's Second Report and Order is
attached to this Petition.

Respectfully submitted,



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Dated: April 15, 1993